

# Order

Michigan Supreme Court  
Lansing, Michigan

June 3, 2011

Robert P. Young, Jr.,  
Chief Justice

142616

Michael F. Cavanagh  
Marilyn Kelly  
Stephen J. Markman  
Diane M. Hathaway  
Mary Beth Kelly  
Brian K. Zahra,  
Justices

WILLIAM D. HARDER,  
Plaintiff-Appellee,

v

SC: 142616  
COA: 298975  
WCAC: 09-000196

CASTLE BLUFF APARTMENTS,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the January 27, 2011 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the question presented should be reviewed by this Court. We note that, contrary to the analysis provided by the Workers' Compensation Appellate Commission (WCAC), MCL 418.361(1) applies at all times to partially disabled workers, see *Lofton v AutoZone, Inc.*, 482 Mich 1005 (2008), but the magistrate in this case found, and the record supports, that the plaintiff did not have the ability to earn wages within his qualifications and training, and the WCAC therefore properly affirmed the magistrate's decision.

CAVANAGH, MARILYN KELLY, and HATHAWAY, JJ., would deny leave to appeal without the further statement found in the majority's order.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 3, 2011

*Corbin R. Davis*

Clerk